

EXPLANATION OF PROPOSED AMENDMENT

TO

CIA ACT OF 1949

1. Under Section 3(a) of the Central Intelligence Agency Act of 1949 the Agency is authorized to exercise certain procurement authorities contained in the Armed Services Procurement Act of 1947. The specific sections of the Armed Services Procurement Act, the authorities of which CIA was authorized to exercise, were incorporated by reference in Section 3(a) of the CIA Act of 1949. Since passage of the CIA Act, additional functions have been assigned to the Agency. This, and added experience, indicate the need to exercise other authorities contained in the Armed Services Procurement Act of 1947.

2. Under Section 2(c) of the Procurement Act, the Armed Services may negotiate purchases and contracts without advertising in seventeen listed circumstances. The Agency is authorized by Section 3(a) of the CIA Act to negotiate in ten of these circumstances, as follows:

Sec. 2(c) (1) In public interest during national emergency.

(2) Public exigency will not admit delay.

(3) Amount involved not exceed \$1,000.

(4) Personal or professional services.

(5) Service by educational institution.

(6) Procurement outside U. S.

- (10) Where impracticable to secure competition.
- (12) Contract should not be publicly disclosed.
- (15) Prices after advertising not reasonable or independently arrived at.
- (17) Otherwise authorized by law.

The Logistics Office has requested that the remaining negotiation authorities of Section 2(c) be given this Agency as follows:

Sec. 2(c) (7) Medical supplies.

- (8) Supplies purchased for resale.
- (9) Perishable subsistence supplies.
- (11) Experimental, developmental or research work.
- (13) Technical equipment requiring standardization.
- (14) Special supplies requiring substantial initial investment for production.
- (16) Where necessary to keep particular plant or facility available.

3. This increase in Agency negotiation authorities, to make them the same as those of the Armed Services, would be accomplished by modifying Section 3(a) of the CIA Act to authorize the Agency to exercise all the authorities contained in Section 2(c) of the Armed Services Procurement Act. This has the added advantage of shortening and simplifying Section 3(a) by removing the listing of subsections of Section 2(c).

4. The Agency has substantial and vitally necessary programs in fields where research and development, standardization of equipment, and provision of new or stand-by production facilities is a necessity. The negotiation authorities contained in Sections 2(c) (11), (13), (14), and (16) of the Armed Services Procurement Act are requested to facilitate this work.

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5. CIA operations are often carried on in conjunction with the Armed Services or [REDACTED] or in accordance with their procedures. To a similar or greater extent, our personnel may be cut off from normal civilian life and the normal sources of supply and need to depend for subsistence and supplies on an organization or unit to which they are attached. Supplies may need to be purchased for their use and the negotiation authorities contained in Sections 2(c) (8) and (9) of the Armed Services Procurement Act are requested for this purpose. Medical facilities are provided our personnel in certain necessary and legally allowable circumstances. As indicated by Section 2(c) (7) of the Armed Services Procurement Act, there should be authority to purchase these by negotiation, since considerations of quality and exact composition often must outweigh a small difference in price.

6. To further contribute to brevity and clarity, the reference to Sections 3 and 4 of the Armed Services Procurement Act has been deleted from Section 3(a) of the CIA Act. These are only two of a number of provisions in the Armed Services Procurement Act and

elsewhere which apply to our procurement and are followed as a matter of course. Their specific inclusion in Section 3(a) is unnecessary and might have the undesirable implication that other general rules and restrictions on procurement are not applicable to CIA.

7. Section 7 of the Armed Services Procurement Act, providing for delegations of authority and covering procedures for making determinations, is included in the CIA Act of 1949 as Section 3(c) and (d). It is proposed to delete these sections of the CIA Act and incorporate Section 7 by reference.

8. In fulfilling its unique mission, the Agency lets contracts from time to time for important and novel research and development work. Such contracts often must extend over a relatively long period in order to accomplish the desired result, and do not accommodate themselves to fiscal year limitations. This is well recognized by now. The Navy obtained special legislation on this subject in 1946 for The Office of Naval Research (5 USC §475d), and subsequent legislation was passed to cover research and development contracts of the Navy (5 USC §475d), Army (5 USC §235d), and Air Force (5 USC §628d). The language of these latter three statutes has been copied in our suggested amendment to the CIA Act. If the Agency seeks and obtains "no year" funds it will probably be unnecessary to seek special funds for research and development.

9. Certain procurement authorities can be exercised under the Armed Services Procurement Act and the CIA Act of 1949 only after a determination has been made by the "head of the Agency." The CIA Act of 1949 defines this term (previously referred to as "Agency head") to mean the Director, the Deputy Director or the Executive of the Agency. At the time of the passage of the CIA Act, the Agency had an Executive who exercised many of the authorities currently under the jurisdiction of the Deputy Director (Support). It is therefore determined to redefine the term "head of the Agency" for the purposes of this section as the "Director and the Deputy Directors of the Central Intelligence Agency", and this definition is included as Section 3(1).

10. On occasion the Agency owns property which must be disposed of as excess to its needs or for operational or security reasons. Ostensible title to the property may be in some other governmental or private cover organization. Every effort will be made to dispose of excess property in accordance with the usual prescribed government procedures. However, it is evident that this cannot always be done. It is our feeling that the Director of Central Intelligence has authority under existing legislation to make the necessary disposition in such cases. However, to make this clear for the reliance of all, Section 10 has been included in our proposed amendment to the CIA Act.

11. Section 3(a) of these proposed amendments is keyed to the Armed Services Procurement Act of 1947. It may be necessary to refer instead to a new law in the event Chapter 137 of the Revision and Codification of Laws Relating to the Armed Forces is enacted. This is H.R. 7049 as reported from the House Committee on the Judiciary. It is a bill to codify the provisions of Title 10 of the U. S. Code. This codification does not change the substance of the provision of the Armed Services Procurement Act which concern us here.

Requested Amendment to CIA Act of 1949

Section 3. Section 3 of such Act is amended to read as follows:

"(a) In the performance of its functions, the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2(a), 5, 6, 7, and 10 of the Armed Services Procurement Act of 1947 (Public Law 413, 80th Congress, Second Session), as amended.

"(b) Contracts of the Agency for services and use of facilities for research or development may be for a term not to exceed five years, and may be extended for an additional period not to exceed five years, subject to the availability of appropriations therefor.

"(c) For purposes of this section, the term "agency head" shall mean the Director and Deputy Director of Central Intelligence and the Deputy Directors of the Agency."

Section 10. Section 6 of such Act is amended by inserting at the end thereof a new subsection "(f)" which shall read as follows:

"(f) Under such regulations as the Director may prescribe, dispose of property, including real estate and supplies, not required for the performance of its functions, without regard to other provisions of law or regulations relating to the disposal of Government property, when compliance with such provisions will impair the national security or the security of Agency activities."

Requested Amendment to CIA Act of 1949

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Section 3. Section 3(a) of such Act is amended to read as follows:

"(a) In the performance of its functions, the Central Intelligence Agency is authorized to exercise the authorities contained in sections 2(c) 5, 6, 7, and 10 of the Armed Services Procurement Act of 1947. (Public Law 413, 80th Congress, Second Session), as amended.

"(b) Contracts of the Agency for services and use of facilities for research or development may be for a term not to exceed five years, and may be extended for an additional period not to exceed five years, subject to the availability of appropriations therefor.

"(c) For purposes of this section, the term "agency head" shall mean the Director and the Deputy Directors of the Central Intelligence Agency."

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